

97TH CONGRESS
2D SESSION

H. R. 5532

To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1982

Mr. PARRIS, introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees Flexi-
4 ble and Compressed Work Schedules Act of 1982".

5 SEC. 2. Chapter 61 of title 5, United States Code, relat-
6 ing to hours of work, is amended by inserting "SUB-
7 CHAPTER I—GENERAL PROVISIONS" before section
8 6101, and by inserting after section 6106 the following new
9 subchapter:

1 "SUBCHAPTER II—FLEXIBLE AND COMPRESSED
2 WORK SCHEDULES

3 "§ 6121. Definitions

4 "For purposes of this subchapter—

5 "(1) 'agency' means an Executive agency and a
6 military department;

7 "(2) 'employee' has the meaning given it by sec-
8 tion 2105 of this title;

9 "(3) 'basic work requirement' means the number
10 of hours, excluding overtime hours, which an employee
11 is required to work or is required to account for by
12 leave or otherwise;

13 "(4) 'credit hours' means any hours, within a
14 flexible schedule established under section 6122 of this
15 title, which are in excess of an employee's basic work
16 requirement and which the employee elects to work so
17 as to vary the length of a workweek or a workday;

18 "(5) 'compressed schedule' means—

19 "(A) in the case of a full-time employee, an
20 80-hour biweekly basic work requirement which is
21 scheduled for less than 10 workdays, and

22 "(B) in the case of a part-time employee, a
23 biweekly basic work requirement of less than 80
24 hours which is scheduled for less than 10 work-
25 days;

1 “(6) ‘overtime hours’, when used with respect to
2 flexible schedule programs under sections 6122 through
3 6126 of this title, means all hours in excess of 8 hours
4 in a day or 40 hours in a week which are officially or-
5 dered in advance, but does not include credit hours;
6 and

7 “(7) ‘overtime hours’, when used with respect to
8 compressed schedule programs under sections 6127
9 and 6128 of this title, means any hours in excess of
10 those specified hours which constitute the compressed
11 schedule.

12 **“§ 6122. Flexible schedules; agencies authorized to use**

13 “(a) Notwithstanding section 6101 of this title, each
14 agency may establish, in accordance with this subchapter,
15 programs which allow the use of flexible schedules which in-
16 clude—

17 “(1) designated hours and days during which an
18 employee on such a schedule must be present for work;
19 and

20 “(2) designated hours during which an employee
21 on such a schedule may elect the time of such
22 employee’s arrival at and departure from work, solely
23 for such purpose or, if and to the extent permitted, for
24 the purpose of accumulating credit hours to reduce the
25 length of the workweek or another workday.

1 An election by an employee referred to in paragraph (2) shall
2 be subject to limitations generally prescribed to ensure that
3 the duties and requirements of the employee's position are
4 fulfilled.

5 “(b) Notwithstanding any other provision of this sub-
6 chapter, but subject to the terms of any written agreement
7 under section 6130 of this title—

8 “(1) any program under subsection (a) of this sec-
9 tion may be terminated by the Office of Personnel
10 Management if it determines that the program is not in
11 the best interest of the public, the Government, or the
12 employees; or

13 “(2) if the head of an agency determines that any
14 organization within the agency which is participating
15 in a program under subsection (a) is being substantially
16 disrupted in carrying out its functions or is incurring
17 additional costs because of such participation, such
18 agency head may—

19 “(A) restrict the employees' choice of arrival
20 and departure time,

21 “(B) restrict the use of credit hours, or

22 “(C) exclude from such program any employ-
23 ee or group of employees.

1 **"§ 6123. Flexible schedules; computation of premium pay**

2 “(a) For purposes of determining compensation for over-
3 time hours in the case of an employee participating in a pro-
4 gram under section 6122 of this title—

5 “(1) the head of an agency may, on request of the
6 employee, grant the employee compensatory time off in
7 lieu of payment for such overtime hours, whether or
8 not irregular or occasional in nature and notwithstand-
9 ing the provisions of sections 5542(a), 5543(a)(1),
10 5544(a), and 5550 of this title, section 4107(e)(5) of
11 title 38, section 7 of the Fair Labor Standards Act, as
12 amended, or any other provision of law; or

13 “(2) the employee shall be compensated for such
14 overtime hours in accordance with such provisions, as
15 applicable.

16 “(b) Notwithstanding the provisions of law referred to in
17 paragraph (1) of subsection (a), an employee shall not be enti-
18 tled to be compensated for credit hours worked except to the
19 extent authorized under section 6126 of this title or to the
20 extent such employee is allowed to have such hours taken
21 into account with respect to the employee's basic work re-
22 quirement.

23 “(c)(1) Notwithstanding section 5545(a) of this title, pre-
24 mium pay for nightwork will not be paid to an employee
25 otherwise subject to such section solely because the employee
26 elects to work credit hours, or elects a time of arrival or

1 departure, at a time of day for which such premium pay is
2 otherwise authorized; except that—

3 “(A) if an employee is on a flexible schedule
4 under which—

5 “(i) the number of hours during which such
6 employee must be present for work, plus

7 “(ii) the number of hours during which such
8 employee may elect to work credit hours or elect
9 the time of arrival at and departure from work,
10 which occur outside of the night work hours designated
11 in or under such section 5545(a) total less than 8
12 hours, such premium pay shall be paid for those hours
13 which, when combined with such total, do not exceed
14 8 hours, and

15 “(B) if an employee is on a flexible schedule
16 under which the hours that such employee must be
17 present for work include any hours designated in or
18 under such section 5545(a), such premium pay shall be
19 paid for such hours so designated.

20 “(2) Notwithstanding section 5343(f) of this title, and
21 section 4107(e)(2) of title 38, night differential will not be
22 paid to any employee otherwise subject to either of such sec-
23 tions solely because such employee elects to work credit
24 hours, or elects a time of arrival or departure, at a time of
25 day for which night differential is otherwise authorized;

1 except that such differential shall be paid to an employee on
2 a flexible schedule under this subchapter—

3 “(A) in the case of an employee subject to such
4 section 5343(f), for which all or a majority of the hours
5 of such schedule for any day fall between the hours
6 specified in such section, or

7 “(B) in the case of an employee subject to such
8 section 4107(e)(2), for which 4 hours of such schedule
9 fall between the hours specified in such section.

10 **“§ 6124. Flexible schedules; holidays**

11 “Notwithstanding sections 6103 and 6104 of this title,
12 if any employee on a flexible schedule under section 6122 of
13 this title is relieved or prevented from working on a day des-
14 ignated as a holiday by Federal statute or Executive order,
15 such employee is entitled to pay with respect to that day for
16 8 hours (or, in the case of a part-time employee, an appropri-
17 ate portion of the employee's biweekly basic work require-
18 ment as determined under regulations prescribed by the
19 Office of Personnel Management).

20 **“§ 6125. Flexible schedules; time-recording devices**

21 “Notwithstanding section 6106 of this title, the Office of
22 Personnel Management or an agency may use recording
23 clocks as part of programs under section 6122 of this title.

1 **"§ 6126. Flexible schedules; credit hours; accumulation**
2 **and compensation**

3 “(a) Subject to any limitation prescribed by the Office of
4 Personnel Management or the agency, a full-time employee
5 on a flexible schedule can accumulate not more than 10
6 credit hours, and a part-time employee can accumulate not
7 more than one-eighth of the hours in such employee's bi-
8 weekly basic work requirement, for carryover from a biweek-
9 ly pay period to a succeeding biweekly pay period for credit
10 to the basic work requirement for such period.

11 “(b) Any employee who is on a flexible schedule pro-
12 gram under section 6122 of this title and who is no longer
13 subject to such a program shall be paid at such employee's
14 then current rate of basic pay for—

15 “(1) in the case of a full-time employee, not more
16 than 10 credit hours accumulated by such employee, or

17 “(2) in the case of a part-time employee, the
18 number of credit hours (not in excess of one-eighth of
19 the hours in such employee's biweekly basic work re-
20 quirement) accumulated by such employee.

21 **"§ 6127. Compressed schedules; agencies authorized to use**

22 “(a) Notwithstanding section 6101 of this title, each
23 agency may establish programs which use a 4-day workweek
24 or other compressed schedule.

25 “(b)(1) An employee in a unit with respect to which an
26 organization of Government employees has not been accord-

1 ed exclusive recognition shall not be required to participate in
2 any program under subsection (a) unless a majority of the
3 employees in such unit who, but for this paragraph, would be
4 included in such program have voted to be so included.

5 “(2) Upon written request to any agency by an employ-
6 ee, the agency, if it determines that participation in a pro-
7 gram under subsection (a) would impose a personal hardship
8 on such employee, shall—

9 “(A) except such employee from such program; or

10 “(B) reassign such employee to the first position
11 within the agency—

12 “(i) which becomes vacant after such deter-
13 mination,

14 “(ii) which is not included within such pro-
15 gram,

16 “(iii) for which such employee is qualified,
17 and

18 “(iv) which is acceptable to the employee.

19 A determination by an agency under this paragraph shall be
20 made not later than 10 days after the day on which a written
21 request for such determination is received by the agency.

22 “(c) Notwithstanding any other provision of this sub-
23 chapter, but subject to the terms of any written agreement
24 under section 6130(a) of this title, any program under subsec-
25 tion (a) may be terminated by the Office of Personnel Man-

1 agement, or the agency, if it determines that the program is
2 not in the best interest of the public, the Government, or the
3 employees.

4 **"§ 6128. Compressed schedules; computation of premium**
5 **pay**

6 "(a) The provisions of sections 5542(a), 5544(a), and
7 5550(2) of this title, section 4107(e)(5) of title 38, section 7
8 of the Fair Labor Standards Act, as amended, or any other
9 law, which relate to premium pay for overtime work, shall
10 not apply to the hours which constitute a compressed sched-
11 ule.

12 "(b) In the case of any full-time employee, hours worked
13 in excess of the compressed schedule shall be overtime hours
14 and shall be paid for as provided by whichever statutory pro-
15 visions referred to in subsection (a) are applicable to the em-
16 ployee. In the case of any part-time employee on a com-
17 pressed schedule, overtime pay shall begin to be paid after
18 the same number of hours of work after which a full-time
19 employee on a similar schedule would begin to receive over-
20 time pay.

21 "(c) Notwithstanding section 5544(a), 5546(a), or
22 5550(1) of this title, or any other applicable provision of law,
23 in the case of any full-time employee on a compressed sched-
24 ule who performs work (other than overtime work) on a tour
25 of duty for any workday a part of which is performed on a

1 Sunday, such employee is entitled to pay for work performed
2 during the entire tour of duty at the rate of such employee's
3 basic pay, plus premium pay at a rate equal to 25 percent of
4 such basic pay rate.

5 “(d) Notwithstanding section 5546(b) of this title, an
6 employee on a compressed schedule who performs work on a
7 holiday designated by Federal statute or Executive order is
8 entitled to pay at the rate of such employee's basic pay, plus
9 premium pay at a rate equal to such basic pay rate, for such
10 work which is not in excess of the basic work requirement of
11 such employee for such day. For hours worked on such a
12 holiday in excess of the basic work requirement for such day,
13 the employee is entitled to premium pay in accordance with
14 the provisions of section 5542(a) or 5544(a) of this title, as
15 applicable, or the provisions of section 7 of the Fair Labor
16 Standards Act, as amended, whichever provisions are more
17 beneficial to the employee.

18 **“§ 6129. Administration of leave and retirement provisions**

19 “For purposes of administering sections 6303(a), 6304,
20 6307 (a) and (c), 6323, 6326, and 8339(m) of this title, in the
21 case of an employee who is in any program under this sub-
22 chapter, references to a day or workday (or to multiples or
23 parts thereof) contained in such sections shall be considered
24 to be references to 8 hours (or to the respective multiples or
25 parts thereof).

1 **"§ 6130. Application of programs in the case of negotiated**
2 **contracts**

3 “(a) Employees within a unit with respect to which an
4 organization of Government employees has been accorded
5 exclusive recognition shall not be included within any pro-
6 gram under this subchapter except to the extent expressly
7 provided under a written agreement between the agency and
8 such organization.

9 “(b) An agency may not participate in a flexible or com-
10 pressed schedule program under a negotiated contract which
11 contains premium pay provisions which are inconsistent with
12 the provisions of section 6123 or 6128 of this title, as appli-
13 cable.

14 **"§ 6131. Prohibition of coercion**

15 “(a) An employee may not directly or indirectly intimi-
16 date, threaten, or coerce, or attempt to intimidate, threaten,
17 or coerce, any other employee for the purpose of interfering
18 with—

19 “(1) such employee's rights under section 6122
20 through 6126 of this title to elect a time of arrival or
21 departure, to work or not to work credit hours, or to
22 request or not to request compensatory time off in lieu
23 of payment for overtime hours; or

24 “(2) such employee's right under section
25 6127(b)(1) of this title to vote whether or not to be in-
26 cluded within a compressed schedule program or such

1 employee's right to request an agency determination
2 under section 6127(b)(2) of this title.

3 "(b) For the purpose of subsection (a), the term 'intimi-
4 date, threaten, or coerce' includes, but is not limited to,
5 promising to confer or conferring any benefit (such as ap-
6 pointment, promotion, or compensation), or effecting or
7 threatening to effect any reprisal (such as deprivation of ap-
8 pointment, promotion, or compensation).

9 **"§ 6132. Regulations; technical assistance; program review**

10 "(a) The Office of Personnel Management shall pre-
11 scribe regulations necessary for the administration of the pro-
12 grams established under this subchapter.

13 "(b)(1) The Office shall provide educational material,
14 and technical aids and assistance, for use by an agency in
15 connection with establishing and maintaining programs under
16 this subchapter.

17 "(2) In order to provide the most effective materials,
18 aids, and assistance under paragraph (1), the Office shall con-
19 duct periodic reviews of programs established by agencies
20 under this subchapter particularly insofar as such programs
21 may affect—

22 "(1) the efficiency of Government operations;

23 "(2) mass transit facilities and traffic;

24 "(3) levels of energy consumption;

25 "(4) service to the public;

1 “(5) increased opportunities for full-time and part-
2 time employment; and

3 “(6) employees’ job satisfaction and nonworklife.”.

4 SEC. 3. The chapter analysis for chapter 61 of title 5,
5 United States Code, is amended by inserting “SUB-
6 CHAPTER I—GENERAL PROVISIONS” immediately
7 below the chapter heading, and by inserting the following
8 items at the end of such analysis:

 “SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULE

 “6121. Definitions.

 “6122. Flexible schedules; agencies authorized to use.

 “6123. Flexible schedules; computation of premium pay.

 “6124. Flexible schedules; holidays.

 “6125. Flexible schedules; time-recording devices.

 “6126. Flexible schedules; credit hours.

 “6127. Compressed schedules; agencies authorized to use.

 “6128. Compressed schedules; computation of premium pay.

 “6129. Administration of leave and retirement provisions.

 “6130. Application of programs in the case of negotiated contracts.

 “6131. Prohibition of coercion.

 “6132. Regulations; technical assistance; program review.”.

○